

IN THE COURT OF Ms. REKHA RANI
DISTRICT & SESSIONS JUDGE (WEST) : DELHI

CA No. 41/15
Unique ID No. 02401R0339402015

Sh. Rajan Parmar
S/o Sh. Kewal Krishan Parmar
R/o BF-49, Janak Puri,
New Delhi.

. . . . Appellant

Versus

Smt. Mamta Parmar
W/o Sh. Rajan Parmar
D/o Sh. Gagan Singh Pathania
R/o F-66, First Floor,
Pipal Wala Road, Mohan Garden,
Uttam Nagar, New Delhi.

. . . . Respondent

Date of filing Appeal : 02.07.2015
Date of Reserving Order : 10.03.2016
Date of judgment : 10.03.2016

JUDGMENT

1. Vide this judgment I shall dispose of the instant appeal preferred under Section 29 of Protection of Women from Domestic Violence Act, 2005 (in short, 'the Act') against order dated 01.05.2015, passed by Ms.Vandana, Ld. MM (Mahila Court-01), West District in CC No.163/1/12 titled Mamta Parmar vs. Rajan Parmar, vide which Ld. MM (Mahila Court-01), West granted

maintenance of Rs.12,000/- per month to petitioner Smt. Mamta Parmar to be payable by respondent Rajan Parmar-appellant herein upto 10th of each English calendar month from the date of filing of the application till further orders.

2. The impugned order has been challenged by the appellant interalia on the following grounds:-

- that the respondent is not entitled to any monetary relief from the appellant as she is more qualified than him having done M.Sc (Gold Medalist) and Post Graduate Diploma in IT.
- that respondent is having CCNA certification and she can do job provided she is willing to do so.
- that respondent has not applied for a job as she wants to sit idle and remain financial burden on him to gain monetary relief from him.
- that respondent is allowed to take advantage of her own wrong and without making any efforts for employment suitable according to academic qualification, Id trial Court allowed her to sit idle.
- that respondent is able bodied person and she cannot be given licence to misuse the benevolent provisions of the Act to cause her unjust enrichment.

3. Notice of the appeal was issued to the respondent, who has put in appearance and contested the appeal.
4. Trial Court record was requisitioned, received and perused.
5. I have heard Shri Ajay Wadhwa, ld. counsel for the appellant and Ms. Meenakshi Verma, ld. counsel for the respondent.
6. Both parties had filed their affidavits before the Ld. Trial Court in terms of the judgment reported as Puneet Kaur vs. Inderjeet Singh Sawhny 111 (2011) DMC 487.
7. As per own affidavit, the respondent is M.Sc., PGDCA qualified.
8. The appellant has relied on judgments - (1) *Haunsabai vs. Balkrishna Krishna Badigar*, 1981 CLJ 110; (2) *Kaveri vs. Neel Sagar & Anr.*, CRL MC NO. 3325/2010, decided on 25.10.2010; (3) *Daman Reet Kaur vs. Indermeet Singh Juneja*, CCINOI 352/3, Date of decision 18.11.2010; (4) *Sanjay Bhardwaj vs. Ors. vs. State & Anr.*, 2010 (118) DRJ 385; (5) *Mamta Jaiswal vs. Rajesh Jaiswal*, 2003 (3) MPLJ; (5) *Hamza Haji vs. State of Kerala & Anr.*, (2006) 7 SCC 416, in support of his contention that a person who voluntarily incapacitates himself from earning is not entitled to claim maintenance from

her/his spouse.

9. Ld. counsel for appellant submitted that being highly professionally qualified, having capacity to earn and chosen not to work is no ground for granting maintenance to the respondent. It was also submitted that being able bodied she should not be allowed to sit idle at home to saddle the appellant with her expenditure. It is also stated that Courts in the aforesaid judgments clearly held that where spouses are equally qualified and equally capable for earning neither spouse should be expected to remain idle to squeeze out maintenance from the other spouse as law does not help indolent lethargic but well qualified spouse waiting for a dole to be granted by earning spouse.

10. Ld. counsel for respondent, on the other hand, has justified the impugned order by stating that respondent has never worked and has never been able to find a job. On specific Court query from the respondent, who is present in the Court, she admitted that she is more qualified than the appellant. However she added that she has never worked and will not be able to find a job as she has no work experience. On further Court query, the respondent has stated that she has never made any effort either to find a job. It is quite shocking and deplorable that a person having the qualification as the respondent has, having capacity to work has chosen not to work on her own will. Respondent further stated that she cannot travel alone anywhere and she wants the appellant

to travel with her to help her in search of job. The said submission is neither palatable nor digestible. She is embroiled in bitter litigation with the appellant. Both are coming to the Court separately. If respondent can come to the Court to fight litigation alone, she can go alone to search a job as well.

11. Be that as it may, at this stage, the appellant has stated that he is willing to accompany the respondent wherever she has applied for a job and get a call for interview. He has also stated that he is also willing to assist her in whatever way she wants his assistance in finding placement. He also voluntarily agreed to pay Rs. 12,000/- per month to the respondent as awarded to the respondent vide the impugned order for a period of one year and has submitted that during this period respondent should make sincere efforts for getting a job.
12. I fully agree with the submissions made by the appellant. Respondent admitted being more qualified than the appellant. She admitted being able bodied person and having capacity to earn. As such she cannot be allowed to sit idle at home to put financial burden on the appellant. Let her make sincere endeavour to find work. As offered by appellant, if respondent needs assistance of the appellant in finding job, she may communicate with him by sending SMS on mobile / email. Both the parties are directed to exchange their respective mobile numbers and email addresses, within a week before Ld. Trial Court. Appellant has agreed to pay her maintenance of Rs.12,000/- per month for a period of one year

and during this period, she should make sincere efforts and start working. The impugned order is operative for one year from the date of order.

13. In view of aforesaid, the appeal bearing CA No.41/15 is disposed of.

Parties are directed to appear before the Ld. Trial Court on 14.03.2016.

Trial Court record along-with copy of Judgment be sent back.

File of appeal be consigned to Record Room.

Announced in open Court on
dated 10th day of March, 2016.

(Rekha Rani)
District & Sessions Judge (West)
Tis Hazari Courts/Delhi